

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2000-142

December 13, 2000

CENTRAL MAINE POWER COMPANY  
Petition to Establish Power Purchase Agreement  
Rate with UAH Hydro Kennebec

ORDER APPROVING  
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

Through this Order, we approve a Stipulation that resolves all the issues in this proceeding.

**II. BACKGROUND**

On February 18, 2000, Central Maine Power Company (CMP) filed a petition, pursuant to P.L. 1997, ch. 316 and Chapter 360 of the Commission's rules, to establish the rate under which it would buy power from UAH-Hydro Kennebec Limited Partnership (UAH). CMP and UAH are parties to a pre-existing power purchase agreement (PPA) under which CMP purchases the output of the UAH hydroelectric facility in Winslow, Maine. Under the PPA, the rates paid by CMP to UAH are adjusted based on changes to CMP's retail rates.

In its petition, CMP stated that the PPA had been rendered impossible to perform by the restructuring of the electric industry, because CMP's retail rates would only be for delivery service, while generation service would be procured from a competitive market. Accordingly, CMP asked the Commission to establish a proxy methodology for determining the PPA rate for the period beginning March 1, 2000.

On March 17, 2000, UAH filed a motion to dismiss, stating that the PPA could be performed without modification, that the Commission does not have the authority under Maine law to consider CMP's petition, and that the Commission is preempted by federal law from modifying the PPA. The Commission issued an Order on April 14, 2000 denying UAH's motion to dismiss.

By procedural order, the Hearing Examiner granted the petitions to intervene of the Public Advocate and the Industrial Energy Consumer Group (IECG), making them parties to this proceeding.

Subsequent to the Commission's Order denying UAH's motion to dismiss, CMP and UAH entered negotiations to settle this proceeding and avoid further litigation. The settlement discussion resulted in an agreed-upon term sheet that was filed with the Commission on August 21, 2000. Subsequent to the filing, CMP and UAH met with the

advisory staff and the other parties to the proceeding to discuss the term sheet. As a result of these discussions, CMP and UAH revised the term sheet to address concerns that were raised at the meeting.

On November 13, 2000, a stipulation was filed that incorporated the revised term sheet. CMP, UAH, and the Public Advocate support the stipulation. The IECG takes no position on the stipulation.

### **III. DISCUSSION OF THE STIPULATION**

The stipulation provides that CMP will pay UAH \$.089 per kWh for the period March 1, 2000 through February 2001 and \$.090 per kWh from March 1, 2001 through February 2002. For subsequent years, the previous year's rate will be adjusted based on the annual change in average electric rates for specified customers in CMP's service territory. Specifically, the change in the T&D portion of electric rates will be based on the usage of a hypothetical customer taking service from CMP at the subtransmission level, and the change in the generation portion of the average rates will be based on the average energy price paid by large non-residential customers with demands over 400 kW. The stipulation contemplates that the information necessary to calculate the change in the generation portion of electric rates will be readily available from competitive supplier annual reports filed pursuant to Chapter 305 of the Commission's rules.

We have reviewed the agreement and find it to be reasonable and in the public interest. The fixed rates that CMP will pay in the first two years represent only a slight increase over the rate paid prior to restructuring (i.e. \$.086 per kWh). This is appropriate in light of the increases in generation costs over most of this year. In addition, the mechanism to adjust the rate starting in the third year is consistent with the legislative provision that, upon request of a party to a contract that ties the power purchase rates to retail electricity rates (such as the UAH PPA), the Commission shall establish power purchase rates based on the annual change in the total price paid for electric services by customers in the utility's applicable rate class. P.L. 1999, ch. 730.

In addition, when reviewing stipulations, the Commission considers whether: 1) the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement; 2) the process that led to the stipulation was fair to all parties; and 3) the stipulated result is reasonable, in the public interest, and not contrary to legislative mandates. As noted, the stipulation is supported by CMP and UAH, the parties to the PPA, and the Public Advocate, who represents the interests of the general body of ratepayers. Moreover, the stipulation process was fair in that all parties, as well as our advisory staff, participated in discussions that led to the agreement. Finally, as stated above, the stipulated result is reasonable and consistent with legislative mandates.

Accordingly, we

ORDER

That the stipulation filed on November 13, 2000 and attached to this Order is, hereby, approved and incorporated by reference into this Order.

Dated at Augusta, Maine, this 13<sup>th</sup> day of December, 2000.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Diamond

COMMISSIONER ABSENT:              Nugent

**NOTICE OF RIGHTS TO REVIEW OR APPEAL**

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.